



# TOWN OF APPLE VALLEY

## TOWN COUNCIL STAFF REPORT

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**To:** Honorable Mayor and Town Council **Date:** September 10, 2013

**From:** Jim Andersen, Manager **Item No:** 9  
Code Enforcement

**Subject:** INTRODUCE ORDINANCE NO 452 – AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF APPLE VALLEY AMENDING CHAPTER 12.38 COMMERCIAL VEHICLE PARKING OF THE APPLE VALLEY MUNICIPAL CODE

**T.M. Approval:** \_\_\_\_\_ **Budgeted Item:**  Yes  No  N/A

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### RECOMMENDED ACTION:

1. Find that the proposed Ordinance No. 452 is not subject to and is Exempt from CEQA, based upon findings under CEQA Guidelines, Section 15061 Sub (b)(3) that can be seen with certainty that there is no possibility that the proposed amendment may have a significant effect on the environment.
2. Move to waive the reading of Ordinance No. 452 in its entirety and read by title only.
3. Move to Introduce Ordinance No. 452 amending Chapter 12.38 Commercial Vehicle Parking.
4. Direct Staff to File a Notice of Exemption.

### SUMMARY:

At the August 13, 2013 Apple Valley Town Council meeting, staff brought to the Town Council an agenda item regarding commercial vehicle parking for discussion. The issue was the current definition of a commercial vehicle in the Municipal Code was not consistent with past Council direction and staff's current and historic enforcement of commercial vehicle parking in the Town.

After discussing the item, the Town Council directed staff to bring back a proposed amendment to the code section so the Municipal Code matches current enforcement practices.

**FISCAL IMPACT:** None

**BACKGROUND:**

Listed below is the current definition of a commercial vehicle in the Municipal Code.

12.38.10 Definitions (a) "Commercial vehicle" means any vehicle having a manufacturer's Gross Vehicle Weight (GVWR) rating exceeding ten thousand (10,000) pounds. Vehicles registered as recreational vehicles that are utilized for the resident's personal use only, and not utilized for commercial gain, are not "commercial vehicles" for purposes of this section regardless of gross vehicle weight rating.

The proposed amendment changes the weight of a commercial vehicle (for parking purposes only) from 10,000 to 26,001 pounds. The weight of 26,001 pounds was taken from Federal Highway Administration weight class chart (attached). The chart lists vehicles over 26,001 pounds as a class 7 vehicle and the photos of the types of vehicles that fall into this category and heavier are consistent with current enforcement and staffs understanding of the Council's intent of the commercial vehicle parking code section.

The commercial vehicle parking requirements have been modified a few times over the years. Prior to 1997 a resident could have one commercial vehicle parked on a .4 acre lot and two commercial vehicles parked on a 1 acre lot.

In 1997 the code was changed to prohibit commercial vehicles on .4 acre lots. One commercial vehicle was allowed on 1 acre lots and two commercial vehicles were allowed on 2 ½ acre lots. The commercial vehicle parking permit system was put in place.

In 2001 the code was again modified. Commercial vehicle parking was prohibited in all residential districts except in R-A, R-LD and R-VLD and with lot sizes of 2 ½ acres or larger.

Any commercial vehicle that had a commercial vehicle parking permit was exempted from the new standards. Many commercial vehicles today still legally park on ½ and 1 acre lots because they have a commercial vehicle parking permit issued between 1997 and 2001.

**ORDINANCE NO. 452**

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF APPLE VALLEY  
AMENDING CHAPTER 12.38 COMMERCIAL VEHICLE PARKING; OF THE APPLE  
VALLEY MUNICIPAL CODE**

WHEREAS, in order to ensure uniformity in the enforcement of the Commercial Vehicle Parking Code; and

WHEREAS, the Town Council has a desire for all residents to be able to enjoy their property; and

WHEREAS, the Municipal Code is not in alignment with the intent, direction, and current practice of enforcement of commercial vehicle parking; and

WHEREAS, it is in the best interest of the Town to amend the provisions of Chapter 12.38 (entitled "Commercial Vehicle Parking") of Title 12 of the Apple Valley Municipal Code; and

WHEREAS, it is the objective of the Town of Apple Valley through code enforcement efforts to preserve and enhance properties located within the Town limits

NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF APPLE VALLEY DOES ORDAIN AS FOLLOWS:

Section 1. Chapter 12.38 of Title 12 of the Town of Apple Valley Municipal Code is hereby amended to read as follows:

**"Chapter 12.38"**

**Commercial Vehicle Parking**

- 12.38.010**    **Definitions**
- 12.38.020**    **Commercial Vehicle Parking Prohibited**
- 12.38.030**    **Exceptions; Permits**
- 12.38.040**    **Requirements for Holders of Parking Permits**
- 12.38.050**    **Fees**
- 12.38.060**    **Violation**
- 12.38.070**    **Enforcement**

**12.38.010 Definitions**

As used in this Chapter:

- (a) “Adjacent lot” or “adjacent to” as used herein means a lot sharing a common property line with the applicant’s residence.
- (b) “Commercial vehicle” means any vehicle having a manufacturer’s Gross Vehicle Weight (GVWR) rating exceeding twenty-six thousand and one (26,001) pounds. ~~exceeding ten thousand (10,000) pounds.~~ And additionally will include all semi truck tractors, semi truck trailers and semi truck tractor trailer combinations. Vehicles registered as recreational vehicles that are utilized for the resident’s personal use only, and not utilized for commercial gain, are not “commercial vehicles” for purposes of this section regardless of gross vehicle weight rating.
- (c) “Parking permit” means the Commercial Vehicle Parking Permit issued by the Town of Apple Valley.
- (d) “Lot size” means the size of a lot as determined by the San Bernardino County Assessor’s Parcel Map.
- (e) “Commercial Vehicle Operators/Owners” means an individual or individuals that operate a commercial vehicle as part of their business or as part of their employment.

**12.38.020 Commercial Vehicle Parking Prohibited.**

- (a) No person shall park, or leave standing any commercial vehicle(s), including combination tractor and trailer(s), towed trailers, semi-trailers, or other towed equipment unless the actual loading or unloading of said vehicle is in progress, except:
  - (1) Commercial vehicle parking shall be permitted on approved truck routes for one hour or less , within 300 feet of a commercial business. Commercial vehicle must be legally parked entirely out of the traveled roadway. Commercial vehicle parking is prohibited on Outer Highway 18, Outer Bear Valley Road, Outer Central Road, and in any parking lot other than for purposes of loading, and unloading.
- (b) Parking of commercial vehicles is prohibited within the Town right-of-way.
- (c) Parking of commercial vehicles is prohibited in front of the residence or garage.
- (d) Parking of commercial vehicles is prohibited in all Residential zoning districts, except:
  - (1) In the Residential Agricultural (R-A) District with a minimum of 2½ acres, and if a permit is obtained, and applicable provisions of Section 12.38.030 and 12.38.040 are complied with.

- (2) In the Residential Low Density (R-LD) District with a minimum of 2½ acres, and if a permit is obtained, and applicable provisions of Section 12.38.030 and 12.38.040 are complied with.
  - (3) In the Residential Very Low Density (R-VLD) District with a minimum of 2½ acres, and if a permit is obtained, and applicable provisions of Section 12.38.030 and 12.38.040 are complied with.
  - (4) And for holders of Commercial Vehicle Parking Permits existing on, or prior to **June 22, 2001**, and subject to the applicable conditions and exceptions in section 12.38.030.
- (e) Parking of commercial vehicles is prohibited in the required front yard setback or street side setback.
  - (f) Parking of commercial vehicles is prohibited on vacant lots.
  - (g) Continuous operation in excess of 15 minutes of commercial vehicle engines, accessory generators, or compressors is prohibited in, or adjacent to residential zoning districts.
  - (h) Repair of commercial vehicles, other than adding oil, brake adjustments, or minor repair of electrical, belts, hoses, lights, or similar equipment, is prohibited in residential zoning districts. This section does not remove the requirement to have a commercial vehicle parking permit.
  - (i) Commercial vehicles carrying hazardous materials, substances, or wastes, as defined in the California Vehicle Code, are prohibited in, or adjacent to any residential zoning district.
  - (j) Unattached trailers, or semi-trailers are prohibited on any highway, street, alley, public way, or public place except in the process of being loaded, or unloaded. Disabled trailers, semi-trailers, or construction equipment, which requires disconnecting the trailer to perform the required service, shall be removed from the public right-of-way within twenty-four (24) hours.
  - (k) Commercial Vehicles are prohibited from being used as storage containers in any residential zoning district.

**12.38.030 Exceptions; Permits.** Residents holding a valid Commercial Vehicle Parking Permit to park their commercial vehicle on their residential property prior to **June 22, 2001**, may continue to park their commercial vehicle(s) at the permitted residence subject to the conditions contained in this section, and in § 12.38.040. Issuance of a permit shall not excuse compliance with all other applicable provisions in this Chapter.

- (a) A completed Commercial Vehicle Parking Permit Application must be filed with, and approved by, the Town of Apple Valley Planning Department.
- (b) The applicant for any parking permit shall be the owner of the property, or if renting the residence, shall have written permission from the property owner. The permit is not transferable to another person or property.
- (c) At the time of application for the parking permit, the applicant shall show proof that he/she is the registered owner of the commercial vehicle, the vehicle has current annual registration, and the vehicle complies with any applicable air quality requirements. The parking permit may also be issued to operators who show written permission of the vehicle owner, current annual registration, and that the vehicle complies with any applicable air quality requirements. Permits shall be renewed annually per 12.38.040(e).
- (d) Any applicant to whom Chapter 9.03.0600 Home Occupation Permits applies shall comply with the requirements of said Chapter 9.13.0600 and also obtain a Town Business License, unless exempted by State and Federal regulations.
- (e) Commercial vehicle parking is prohibited on lots smaller than 18,000 gross square feet.
- (f) Parking of the tractor or bobtail without trailer(s) may be permitted in the front of the residence, or garage, when there is no access and/or available space to the rear or side of the residence. The tractor must be completely parked on private property in such a way that it does not obstruct the view of traffic on the public streets or from adjacent properties, and is parked no further than twenty (20) feet from the residence.
- (g) The following requirements and limitations shall apply to residents who utilized their property for commercial vehicle parking on or prior to **July 24, 1997**:
  - (1) A maximum of two (2) commercial vehicles or combination tractors and trailers in excess of twenty six thousand and one (26,001) ~~of ten thousand (10,000)~~ pounds GVWR shall be permitted per each improved residential lot of one acre or more in size.
  - (2) A maximum of one (1) commercial vehicle or combination tractor and trailer in of excess twenty six thousand and one (26,001) ~~of ten thousand (10,000)~~ pounds GVWR shall be permitted per each improved residential lot greater than .4 acre (18,000 gross square feet) and less than one acre in size.
- (h) The following requirements and limitations shall apply to residents who began utilizing their property for commercial vehicle parking after **July 24, 1997**, and on or prior to June 22, 2001;
  - (1) A maximum of two (2) commercial vehicles or combination tractor-trailer in excess of twenty six thousand and one (26,001) ~~of ten thousand (10,000)~~

pounds GVWR shall be permitted per each improved residential lot of one acre or more in size.

- (2) Parking of commercial vehicles is prohibited on lots less than one acre in size.
- (i) The following requirements and limitations shall apply to residents who began utilizing their property for commercial vehicle(s) parking after **June 22, 2001** in the R-A, R-LD, and R-VLD Residential Zone;
  - (1) A maximum of two (2) commercial vehicles or a combination tractor-trailer in excess of twenty six thousand and one (26,001) ~~ten thousand (10,000)~~ pounds GVWR shall be permitted per each improved residential lot of 2 ½ acres or more in size.
- (j) The Commercial Vehicle Permit is not transferable to another operator or another resident of the property.
- (k) Emergency utility response vehicles used in the community may be exempted from the requirements of this chapter provided there is no approved corporation yard or parking space located within the Town boundary. This exemption will be approved on a case by case basis by the Town Manager or designee.

#### **12.38.040 Requirements for Holders of Parking Permits.**

The following provisions shall also apply to holders of Commercial Vehicle Parking permits:

- (a) Commercial vehicles shall be parked to the rear, or side of the residence in such a manner as to minimize visibility from the road.
- (b) Commercial vehicles shall be parked a minimum of twenty-five (25) feet from any residential structures on adjacent property. If this is not feasible, this condition may be waived upon written consent from the occupant of the adjoining, affected residence.
- (c) For Commercial Vehicle Parking Permits issued prior to June 22, 2001, parking may be permitted on an adjacent vacant lot under the same ownership as the applicant's residence, only when there is no access and/or adequate space to the rear or side of the residence, subject to compliance with all other conditions including:
  - (1) Commercial vehicles parked on a vacant lot shall be parked the same distance from the roadway as the applicant's residence;
  - (2) The commercial vehicle shall be parked within twenty (20) feet of the fence line or residential structure of applicant's property.

- (3) The commercial vehicle shall be parked perpendicular to the street and behind the front yard setback.
- (d) A Town of Apple Valley parking permit placard must be affixed immediately below the right front interior visor of the commercial vehicle for which the permit was issued. Failure to display the placard is a violation of this Code section.
- (e) Proof of current annual registration must be submitted to the Town of Apple Valley by the commercial vehicle owner/operator on an annual basis to maintain a valid commercial vehicle parking permit. If the owner/operator fails to submit the required proof of annual registration the parking permit shall automatically expire on the parking permit's anniversary date.

**12.38.050 Fee.** A parking permit fee shall be established by resolution of the Town Council.

**12.38.060 Violation**

- (a) Each person, firm, or corporation shall be guilty of a separate offense for each and every day during any portion of which any violation of any provision of this Chapter is committed, continued, or permitted by such person, and shall be punishable accordingly.
- (b) The parking permit may be revoked upon failure to comply with any provision of this Code.

**12.38.070 Enforcement**

The provisions of this Chapter shall be enforced by the Town Manager or designee.

***(Entire Chapter 12.38 amended per Ord.183, 06-24-97. also amended per Ord 218, 3-28-2000; also amended per Ordinance 234 adopted 5-22-01).***

Section 2. Except as expressly amended hereby, all other provisions of Title 12 of the Town of Apple Valley Municipal Code shall remain in effect.

Section 3. Invalidation. The amendment by this ordinance of Chapter 12.38 of the Town of Apple Valley Municipal Code as previously in effect shall not be construed to invalidate any entitlement exercised or proceeding taken pursuant to either of said Chapters while the same was in effect.

Section 4. Effective Date. This ordinance shall become effective thirty days from and after its adoption.

Section 5. Notice of Adoption. The Town Clerk of the Town of Apple Valley shall certify to the adoption of this ordinance and cause publication to occur in a newspaper



of general circulation and published and circulated in the Town in a manner permitted under Section 36933 of the Government Code.

APPROVED and ADOPTED by the Town Council and signed by the Mayor and attested by the Town Clerk this 8<sup>th</sup> day of October, 2013.

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Curt Emick, Mayor

Attest:


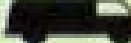


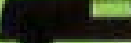
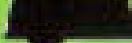

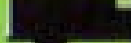
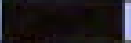
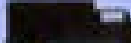
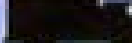
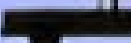

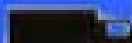
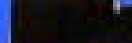


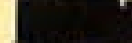
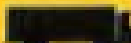




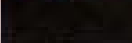






\_\_\_\_\_  
La Vonda Pearson, Town Clerk

Approved as to form:

Approved as to content:

\_\_\_\_\_  
John Brown, Town Attorney

\_\_\_\_\_  
Frank W. Robinson, Town Manager

<b>Class 1 - 6,000 &amp; Less</b>			
			
Minivan	Cargo Van	SUV	Pickup Truck
<b>Class 2 - 6,001 to 10,000</b>			
			
Minivan	Cargo Van	Full-Size Pickup	Step Van
<b>Class 3 - 10,001 to 14,000</b>			
			
Walk-in	Box Truck	City Delivery	Heavy-Duty Pickup
<b>Class 4 - 14,001 to 16,000</b>			
			
Large Walk-in	Box Truck	City Delivery	
<b>Class 5 - 16,001 to 19,500</b>			
			
Bucket Truck	Large Walk-in	City Delivery	
<b>Class 6 - 19,501 to 26,000</b>			
			
Deverage Truck	Ginglo A/clo	School Bus	Rack Truck
<b>Class 7 - 26,001 to 33,000</b>			
			
Refuse	Furniture	City Transit Bus	Truck Tractor
<b>Class 8 - 33,001 &amp; Over</b>			
			
Cement Truck	Truck Tractor	Dump Truck	Sleeper